

## **DETAILED ACTION**

### ***Allowable Subject Matter***

This Notice of Allowance is in response to the Decision by the Board on 3/30/2010.

Claims 45-49, 51-55, 57-59 dated 5/28/10 are allowed.

### ***Examiner's Statement of Reason's for Allowance***

The following is an examiner's statement of reasons for allowance.

This Notice of Allowance is in response to the Decision by the BPAI on 3/30/2010.

Prior art was found which disclosed many of the features of the Applicant's claims (see pages 4, 5 of the 3/30/10 BPAI decision). Also, Examiner stated citations and explanations believed relevant to the features of "a determination that said portable computer system is within a particular proximity to said plurality of server systems" (pages 16-18 of Examiner's Answer dated 7/20/2007). However, the Board found that the prior art did not render obvious all the Applicant's features of the independent claims. On page 7 of the BPAI decision dated 3/30/10, the BPAI states (pages 7, 8):

"We agree with the Appellants. Claim 45 includes limitation [2] which requires: [2] 'transmitting said request to a portable computer system in response to a determination that said portable computer system is within a particular proximity to said plurality of server systems'.

Madison discloses that a geographic cookie file may be used transmit localized data to a specified geographic location (FF4). Madison at [32] discloses that location

Art Unit: 3622

information is written into the browser geographic cookie file and that the geographic information is supplied to the website server which can use the information to target advertising (FF5). Thus, Madison at [0032] discloses transmitting to a computer data based on a determination that it is in a specified geographic location and it is not disclosed that it is "within a particular proximity" as claimed. Klug at Fig. 3 (item 308) discloses that an e-mail address (FF3) is used and at Col. 1:45- 56 describes that city of residence is given (FF4). Neither of these two citations to Klug discloses transmission of data based on a determination for being "within a particular proximity" as claimed. Note that while Klug in Col. 1:45-56 discloses that a city of residence is used this is a specific location and not a "within a particular proximity" as claimed.

Further, Klug which is directed to a World Wide Web registration system to assist users in registering at web sites (FF1). In Klug, the users registration information can be transferred to a plurality of web sites (FF2) and the rejection fails to provide articulated reasoning with rational underpinnings to support the legal conclusion of obviousness since it is unclear that the registration information would be restricted on the basis of a being within a particular proximity of a specific location. Klug is directed to registration information, not advertising information, and it is unclear why such a combination would desire to restrict the registration information based on a particular proximity. For these reasons the rejection of claims 45 and its dependent claims is not sustained. The rejection of claims 51, 57, and their dependent claims is not sustained for these same reasons as they also contain a limitation similar to [2]."

Hence, the Board did not find that Klug, Gardenswartz, and Madison supported a

Art Unit: 3622

35 USC 103 rejection of the Appellant's claims.

Hence, the Board stated that the prior art cited does not render obvious the combination of the specific features stated above.

Also, the BPAI on 3/30/10 entered a new grounds of rejection under 112 2nd for claims 51-55, 57-59. However, on 5/28/10, Applicant amended the claims to correct the 112 issue.

Hence, because of the 5/28/10 claim amendments and the 3/30/10 BPAI decision, the 3/30/10 claims are found allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

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Arthur Duran Primary Examiner

Art Unit 3622

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6/7/2010